

**EDWARD C. HUGLER, Acting Secretary
of Labor, United States Department of Labor**

V.

Defendants.

1:17-cv-55 (LMB/MSN)

Before the Court is a Report and Recommendation (“Report”) issued by a magistrate judge on September 27, 2017 [Dkt. No. 39]. The Report recommends that default judgment be entered against defendants Saldivar & Associates, LLC (doing business as and hereinafter referred to as “R&R Catering”), Robert P. Saldivar (“Saldivar”), Michelle M. Bloxton (“Bloxton”) (collectively, “defendants”) and that plaintiff recover \$96,470.43 in back wage compensation and \$96,470.43 in liquidated damages owed to defendants’ employees. See Report at 1; see also Pls.’ Supp. Mem. in Supp. of Mot. for Default J., Ex. B. [Dkt. No 34] (listing defendants’ employees). The parties were advised that any objections to the Report must be filed within fourteen days of service of the Report and that failure to file a timely objection waives the right to appeal the substance of the Report and any judgment based upon the Report. As of October 16, 2017, no party has filed an objection.

The Court has reviewed the Report, plaintiff's motion, and the file and adopts the Report in its entirety. The magistrate judge correctly determined that the Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 due to plaintiff's claims arising under

the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, et seq., and that the Court has personal jurisdiction over all defendants because R&R Catering is a Virginia corporation, and Saldivar and Bloxton are Virginia residents. See Report at 2-3. Venue is proper pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to plaintiff’s claims occurred in this district. Id. at 3. The record also shows that all defendants were properly served and that none of them filed any response to the Complaint. Id. at 2.¹

The Court further finds that the magistrate judge properly concluded that defendants paid their employees less than the federal minimum wage, and that defendants paid their employees at rates less than the required rate of 1.5 times the federal minimum wage for each hour worked in excess of 40 hours per week. Id. at 5-6. The magistrate judge also found that the FLSA violations were “willful” because defendants were twice informed of their obligations to pay minimum wage and overtime rates, and the Department of Labor had previously investigated R&R Catering for compliance with the FLSA, first from 2009 to 2011, and again from 2013 to 2014, revealing multiple violations of §§ 6, 7, and 11 of the FLSA. See id. at 6-7. Therefore, because defendants did not show they acted in good faith, the magistrate judge correctly determined that defendants must also pay liquidated damages in an amount equal to the amount of unpaid wages pursuant to 29 U.S.C. § 216(b). Id.

The magistrate judge properly calculated the amount of unpaid wages as \$96, 470.43, and the amount of liquidated damages to be equal to the amount of unpaid wages, \$96,470.43. Id.

¹ On March 4, 2017, Bloxton agreed to accept personal service on behalf of all defendants. Id. at 2. No response to the complaint was filed by any defendant, and the Clerk entered default as to all three on April 4, 2017. Id. On May 25, 2017, the magistrate judge determined that service was improper as to Saldivar, and ordered plaintiff to reserve him within 21 days. Id.; see also [Dkt. No. 24]. On June 15, 2017, plaintiff properly served Saldivar at his business, and he did not file a response within 21 days. Report at 2. On July 18, 2017, the Clerk entered a second default as to Saldivar. Id.


Additionally, the Court accepts the Report's recommendation that plaintiff not be awarded attorney's fees, costs or interest because they did not request attorney's fees or interest and did not specify an amount for their costs in any pleading. Id. at 8. Accordingly, plaintiff's Motion for Default Judgment [Dkt. No. 20] is GRANTED, and it is hereby

ORDERED that a default judgment in the total amount of \$192,940.86, consisting of \$96,470.43 for unpaid wages and \$96,470.43 in liquidated damages, be and is awarded in favor of plaintiff against defendants Saldivar & Associates, LLC, Robert P. Saldivar, and Michelle M. Bloxton, jointly and severally, to be paid to the United States Department of Labor Wage and Hour Division.

The Clerk is directed to enter final judgment in plaintiff's favor pursuant to Fed. R. Civ. P. 55 and to forward copies of this Order to counsel of record and to defendants at their addresses of record.

Entered this 17th day of October, 2017.

Alexandria, Virginia



Leonie M. Brinkema
United States District Judge